



**Hampton Roads Clean Cities Coordinator – Nic van Vuuren  
Testimony at EPAct Private and Local Fleet Rule Hearing  
Washington DC, May 7, 2003**

The Department of Energy has proposed not extending the Energy Policy Act fleet requirements to local government and large private fleets. I am the Clean Cities coordinator for Hampton Roads, Virginia, and I would like to make the case that this is a step backward in the nation's campaign to reduce our dependence on foreign oil. I believe it also runs counter to the intent of the legislators in 1992, and would do harm to our efforts to promote American Fuels in transportation. I believe that a P+L rule is indeed necessary to achieving the goals of EPAct, and an important tool to achieving national energy security.

Unfortunately, the DoE analysis makes two significant errors, and perhaps misinterprets the intent of the law. The first error is that it makes an oversimplified calculus of the potential effect of the rule. The P+L fleets were selected as a third tier of leadership fleets that were going to serve by example, along with the much smaller Federal and State Fleets (and fuel provider fleets). These fleets were not selected for their fuel use potential, but principally to serve as a foundation for voluntary efforts, such as the Clean Cities program, and were a nucleus around which more expansive efforts to introduce alternative fuels would be built. The analysis completely ignores the catalyst role that is to be played by the P+L fleets.

The second major error in the analysis is to assume that by not promulgating the rule, we will remain at status quo on our march to petroleum independence. In fact, the rule will send a very clear signal to very visible fleets that as a nation, we do not prioritize the importance of reducing our dependence on petroleum and that local efforts are not necessary or important. As Clean Cities Coordinator, I have already seen this nefarious effect manifest itself in several of our communities. Cities that took a very proactive role in anticipation of the rule have almost completely abandoned their alternative fuels efforts – I will relate why in more detail a bit later.

The question at hand about necessity of a P+L rule is, is promulgation of such a rule necessary to help us move toward our energy security goals, or not. It can be demonstrated that lack of a P+L rule is not neutral, and will actually harm this effort, counter to Congressional intent. Therefore the current proposed rule deserves to be seriously revised.

I will now refer to some specific arguments made in the proposed rule documentation.

The Proposed Rule states that DoE believes that "implementation of a [P+L] rule ...would not appreciably contribute to the achievement of EPAct's existing 2010 replacement goal of 30 percent, or of a revised replacement fuel goal were one to be adopted." The crux of this argument is that "DoE has concluded that the number of .... AFV acquisitions ....[is] too small to cause an appreciable increase in [replacement fuel

use].” DoE points only to the number of vehicles covered by the rule, and as I have pointed out completely ignores the catalytic effect of the rule, and the supportive effect of the rule on voluntary efforts like Clean Cities. For the first time, large numbers of large fleets that operate in a contained geographic area would be covered, thus voiding the arguments of portability that are often forwarded by federal and state fleets. For example, Virginia will not acquire dedicated CNG vehicles because often fleet users are required to travel from Richmond to all corners of the state, where infrastructure is not available. The City of Norfolk on the other hand operates the large majority of its vehicles in a contained geographic area of about 25 square miles – ideal for implementation of CNG. In this case, it is not possible to extrapolate the poor State experience to the local government case.

A good deal of the proposed rule complains, and rightfully so, about the constraints of EPO that render it less than one hundred percent effective. For example, EPO does not give DoE authority to require alternative fuel use. However, EPO fleet acquisitions create an opportunity for independent efforts to convince policymakers to enact their own fuel use regulations, usually modeled on presidential Executive Order 13149, such as Maryland’s Green Government Executive Order. It is clear that neither of these initiatives would have been possible without the EPO mandates. By not promulgating the P+L rule, DoE takes away a valuable tool for Clean Cities to persuade localities to respect the spirit of the law.

DoE mentions that “market forces would prevent appreciable increases in replacement fuel use”, even if P+L were implemented. Market forces always work against initiatives such as EPO, or Clean Air regulations. It is precisely because of market forces that well designed regulatory intervention is required. Now, there is a case to be made that EPO is not very well designed. It is not ideal to target specific fleets, where the cost burden is more focused and not spread out thinly and evenly, as it was in the case of automotive emissions requirements. The energy security analogy to the automotive emissions program is Corporate Average Fuel Economy – but the political reality is that CAFE is mired in a morass. There was much comment about incentives – incentives are great but cannot exist alone – and current incentive programs like Clean Cities are finding their budgets slashed, not growing. In other words, imperfect EPO is all we have at this point.

DoE also refuses to take this opportunity to revise the 30 percent 2010 goal. As early as 1996, it was clear that the 30 percent goal was neither practicable, nor achievable with the current state of affairs affecting the transportation fuels market. Absent mechanisms that reflect the true cost of petroleum at the retail level, regular market forces will not permit significant penetration of alternative fuels technologies. DoE has full authority to revise the petroleum displacement goal in view of these realities to reflect something achievable. But then some commenters pointed out the arbitrary nature of setting numeric goals, and they are not necessarily incorrect. What we find is that the goal being expressed by the 1992 legislators is to move away from the petroleum use status quo, and increase replacement fuels use as much as possible. The question then is reiterated – does the P+L decision contribute to the achievement of this goal, or does it detract from it? Once again, not promulgating the P+L rule will result in a backward step and take away the small but progressively forward movement towards petroleum displacement – this is clearly contrary to the spirit of EPO. In other words, the P+L rule is indeed necessary to achieving the goal of EPO.

DoE cites “commenters who opposed...P+L....suggested it would foster non-compliance and limit participation in voluntary programs.” The situation in Hampton Roads is the diametric opposite of this statement. In fact, it has been the anticipation of P+L that has enabled a number of individuals in our local governments to be proactive with alternative fuels use. As it became clear that P+L was being “back-burnered”, and then abandoned, many of these individuals lost their key argument for “doing the right thing”. So instead of moving forward with more ambitious AFV programs, we find municipalities participating less and less in voluntary efforts like Clean Cities. In fact, a Clean Cities colleague commented at the Chicago P+L hearings that a number of fleets joined Clean Cities precisely because of future mandates.

DoE will not create an urban bus fleet requirement, and begins its discussion by claiming that because buses are not in the EPA fleet definition, they cannot expand the rule to include them. Common sense dictates that legislators were asking DoE to expand the definition of fleets if a bus AFV fleet requirement made sense. DoE goes on to say that a bus requirement won’t make sense because increased fares will reduce the number of transit users, and petroleum use will increase again. This argument flies in the face of air quality strategies that reward increased transit expenditures for items such as bus shelters because they enhance the transit riding experience. It is common knowledge that CNG buses are more pleasant to ride because they are less noisy, physically cleaner, and do not spit black smoke into riders’ faces as they pull away from bus stops – this could actually contribute to a ridership increase. Transit operators must manage the system as efficiently as possible, with minimal impact on fares, in response to a number of imperatives – emissions, safety, handicapped access, etc. There is no reason that they cannot manage another societal imperative with the importance of our nation’s energy security.

So, to summarize, I believe that the goal of EPA is to move away from petroleum fuel use and increase replacement fuel use. This was clearly the intent of the Congress in 1992 when it provided for reevaluation of the arbitrary numeric goal of thirty percent – it is not the absolute number that is important here, but the movement away from the status quo. The lack of a P+L rule will result in a decline in replacement fuel use. Therefore, promulgation of a P+L rule is necessary to achieve this goal of moving forward to energy independence. A P+L rule must be established to avoid any backsliding, and to provide a firm foundation for voluntary programs such as Clean Cities.